

# Exhibit 28

THE  
CODE OF ALABAMA,

ADOPTED BY ACT OF THE GENERAL ASSEMBLY APPROVED

FEBRUARY 28, 1887;

WITH SUCH STATUTES PASSED AT THE SESSION OF 1886-87, AS ARE RE-  
QUIRED TO BE INCORPORATED THEREIN BY ACT APPROVED  
FEBRUARY 21, 1887; AND WITH CITATIONS OF THE  
DECISIONS OF THE SUPREME COURT OF  
THE STATE CONSTRUING THE  
STATUTES.

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IN TWO VOLUMES.

VOL. I.

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PREPARED BY

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COMMISSIONERS.

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1887.

record, book, paper, contract, return, or other document, or of the official statement of any account between him and the state, in the office of the auditor or treasurer, certified by the auditor, if the original is in his office, or by the treasurer, if in his office, under the great seal of the state, shall be received as evidence in any case in which the original would be competent, unless the defendant shall deny under oath that he made or executed such original.

**627. Assessor and collector may contract for stationery, printing, etc.**—The tax-collector and tax-assessor are authorized to purchase necessary books and stationery, and to contract for the necessary printing in their respective offices, with the approval of the court of county commissioners. 1b. sec. 132.

**628. Penalty against officer failing to pay over money collected.**—Upon a verdict being returned in favor of the state, in any suit brought by the state against any officer charged with the collection of any revenue for the state, and his sureties, or either, for the recovery of any such revenue collected by him, a judgment must be rendered for the amount of such verdict, and twenty per cent. thereon. \* 1b. sec. 41.

## CHAPTER 9.

### LICENSES.

ARTICLE 1.—Business and callings for which licenses are required; prices of licenses.

2.—Issue and expiration of licenses, and other general provisions.

### ARTICLE I.

BUSINESS AND CALLINGS FOR WHICH LICENSES ARE REQUIRED; PRICES OF LICENSES.

**629. Persons required to take out licenses, and prices to be paid therefor.**—Licenses are required of all persons engaging in, or carrying on any business, or doing any act in this section Dec. 12, 1884,  
p. 3, sec. 14.

\* On Feb. 18, 1887, "An act to amend section 499 of the Code of Alabama," was approved (Pamph. Acts 1886-7, p. 143); and the section, as amended, is as follows:

"Section 499. **Cities and towns may adopt provisions of this chapter.**—Any incorporated city or town in this state may, by an ordinance, adopt the provisions of this chapter, regulating the assessment and collection of taxes by such city officers or agents, so far as the same may be applicable, and shall have the same right to sell property and make titles to property sold for taxes, as is provided for collecting state and county taxes; but any such city or town must first, by ordinance, adopt such parts of this chapter for said purposes as they desire to put in force; but no city (except Mobile, Montgomery, Marion, Brewton, Cullman and Selma), or town, or county shall assess, levy or collect any license tax on any business or occupation upon which the state does not assess, levy, or collect such license tax. Nothing herein contained shall affect the provisions of the act for the reduction and funding of the debt of the city of Mobile, approved March 9th, 1875. The city council of Opelika may assess, levy and collect a license tax on banks or bankers, the keepers of livery stables, of meat markets, and those engaged in the business of running drays and hacks for hire." The provisions of the chapter referred to (chapter 2 of title VII. of part 1 of Code of 1876) were superseded by subsequent legislation embodied in this Code, in which no provision of like import to that embraced in section 499 of Code of 1876 was contained; and hence, it was omitted by the commissioners from this Code. The chapter referred to corresponds, in subject-matter, with this title of this Code.

specified, for which shall be paid, for the use of the state, the following taxes, to-wit:

- Subd. 1. 1. For each public race-track, at or within five miles of any city or town containing less than five thousand inhabitants, one hundred dollars; at or within five miles of any city or town containing more than five thousand inhabitants, two hundred dollars.
- Subd. 2. 2. For the retail of spirituous, vinous, or malt liquors, on any steamboat or other water-craft, or on any sleeping, dining, or buffet-car, two hundred and fifty dollars, for which the state shall have a preferred lien on such steamboat or other water-craft, and cars named; and such lien may be enforced whenever any such liquors are retailed by any person on such steamboat or other water-craft, or cars, with the knowledge or consent of the captain, or conductor, without having first procured a license therefor, as provided by law; and the tax-collector of any county in which such steamboat or other water-craft may ply, or cars run, is required to enforce such lien in the same manner, and by the same proceedings, as are authorized for the collection of taxes on personal property.
- Subd. 3. 3. For retailers of spirituous, vinous, or malt liquors in any city, town, village, or any other place, of less than one thousand inhabitants, one hundred and twenty-five dollars; in any city, town, or village of more than one thousand, and less than three thousand inhabitants, one hundred and seventy-five dollars; and in any city or town containing three thousand or more, and less than ten thousand inhabitants, two hundred and fifty dollars; and in any city of more than ten thousand inhabitants, three hundred dollars. But dealers in lager beer exclusively shall be charged one-fourth of the above rates. Any person who pays for and takes out a license as a retailer, shall not be required to pay for, and take out a license as a wholesale dealer in such liquors; and when a retail license is taken out after the first day of January, and before the first day of July, the price of the license shall be the same as for a license for twelve months. Any person who sells or disposes of spirituous, vinous, or malt liquors, or intoxicating bitters, in any quantity less than a quart, shall be deemed a retail dealer.
- Subd. 4. 4. For wholesale dealers in spirituous, vinous, or malt liquors in any place, two hundred dollars. Any person dealing in said articles, who shall sell, barter, or exchange, or in any way dispose of, or permit to be taken, spiritous, vinous, or malt liquors, in any quantity less than one quart, or who shall permit the same to be drunk by the glass, or single drink, in or about his place of business, shall be deemed a retail dealer; and any dealer so disposing of spirituous, vinous, or malt liquors, only in the quantity of one quart or more, shall be deemed a wholesale dealer.
- Subd. 5. 5. For compounders and rectifiers of spirituous or vinous liquors, two hundred dollars. Any person who rectifies, purifies, or refines distilled spirits or wines, by any process, or who mixes distilled spirits or wines with any chemicals, or compounds liquors for sale under any name, shall be deemed a compounder and rectifier.

6. For distillers of spirituous liquors, two hundred dollars; Subd. 6.  
but this shall not apply to the distilling of fruits.

Grant v. State, 73 Ala. 13; Johnson v. State, 44 Ala. 414.

7. For brewers, fifteen dollars. Subd. 7.

8. For bowling alleys, for the use of which money or other Subd. 11.  
compensation is charged, twenty-five dollars for each alley;  
and for each bowling alley kept in connection with a drinking  
saloon, whether compensation is charged or not, twenty-five  
dollars.

9. For each billiard table, for the use of which money or Subd. 12.  
other compensation is charged, and which is not kept in con-  
nection with the business of a bar-room or drinking saloon,  
twenty-five dollars.

10. For each billiard table kept in connection with the busi- Subd. 13.  
ness of a bar-room or drinking saloon, whether its use be  
charged for or not, fifty dollars.

11. For each table upon which the game of pin-pool is played, Subd. 14.  
one hundred dollars.

12. For each table upon which a game of pool is played with Ib.  
fifteen balls, more or less, and not pin-pool, for the use of which  
money or other thing of value is charged, or, when kept in con-  
nection with a bar-room or drinking saloon, whether its use be  
charged for or not, fifty dollars.

13. For each bagatelle or Jenny-Lind table, or any other ta- Subd. 15.  
ble or device of any kind from which any kind of profit is de-  
rived by the keeper, fifty dollars.

14. For each table or device, or set of dominoe bones, kept Subd. 13.  
in connection with a bar-room or drinking saloon for use in  
playing the game commonly known as dominoes, twenty-five  
dollars; and for each dice-box and dice kept in a bar-room or  
drinking saloon, twenty-five dollars.

15. For each theatre in towns or cities containing more than Subd. 16, as  
eight thousand inhabitants, one hundred dollars; but this price amended Feb.  
shall not be charged for licenses for open air or summer theatres, 17, 1885, p. 70.  
such as at Mobile on the bay shore, and known as Frascati, but  
for each such open air or summer theatre, twenty-five dollars;  
in towns or cities containing less than eight thousand and more  
than two thousand inhabitants, fifty dollars; and in towns or  
cities containing less than two thousand inhabitants, twenty-  
five dollars; but the owner or manager of any theatre holding  
any such license must issue tickets of admission to all persons  
whom they admit to their exhibitions, and must thereon assign  
a particular seat to each such person, in such part of the theatre  
as the convenience of such owner or manager may require.  
This license shall only extend to dramatic and operatic exhibi-  
tions; and if any doubt arises as to the character of an enter-  
tainment proposed to be exhibited in any theatre, the judge of  
probate of the county in which the theatre is situated shall de-  
termine whether or not it is covered by the theatrical license.

16. For each public hall let for hire, twenty-five dollars. Ib.

17. For each concert, musical entertainment, public lecture, Subd. 26.  
or other public exhibition or entertainment, where charges are  
made for admission, or for the use of any instrument or device,  
or the participation in any exercise or entertainment, not given

for charitable, school, or religious purposes, and not otherwise provided for, five dollars; but the provisions of this subdivision shall not apply to exhibitions or entertainments given in theatres, where the owner or manager thereof has taken out license as owner or manager.

Subd. 22. 18. For each day's exhibition of a circus in towns or cities having more than five thousand inhabitants, or within two miles thereof, one hundred and fifty dollars; in all other places, one hundred dollars.

Subd. 23. 19. For each exhibition of a menagerie or museum, twenty dollars.

Subd. 24. 20. For each exhibition of a side show accompanying a circus, menagerie, or museum, ten dollars.

Subd. 25. 21. For each exhibition of feats of legerdemain or sleight-of-hand, or other exhibition or entertainment of like kind, ten dollars.

Subd. 28. 22. For each cockpit, two hundred and fifty dollars.

Subd. 31. 23. For each fortune teller, twenty-five dollars.

Subd. 29. 24. For each company of traders or fortune tellers, usually known as Gypsies, ten dollars for each county.

Subd. 27. 25. For each shooting gallery, twenty-five dollars.

Subd. 30. 26. For each skating rink, twenty-five dollars.

Subd. 34. 27. For dealers in playing cards, five dollars.

Subd. 17. 28. For dealers in pistols, or pistol cartridges, or bowie knives, or dirk knives, whether principal stock in trade or not, three hundred dollars.

Porter v. State, 58 Ala. 66.

Subd. 18. 29. For each peddler of medicines or other articles of like character, spectacles or eye-glasses, one hundred dollars for each county in which they peddle.

Dec. 11, 1885, p. 31, sec. 5, subd. 18. 30. For peddlers of medicines, with vocal or instrumental music, or both, two hundred and fifty dollars for each county in which they peddle.

Dec. 12, 1884, p. 3, sec. 14, subd. 9. 31. For peddlers in a wagon drawn by one horse, or other animal, forty dollars; in a wagon drawn by two horses, or other animals, fifty-five dollars; on a horse, or other animal, twenty-five dollars; on foot, fifteen dollars; when accompanied by singers or performers on any musical instruments, one hundred dollars; but for peddlers of tinware only, who shall pay all lawful fees, one-third of the license fees herein provided; peddlers of wooden and stone or clay hollow-ware only, shall not be required to procure license. A peddler's license shall entitle him to peddle only in the county where it is taken out. It shall be the duty of county court judges, justices of the peace, and notaries public having and exercising the jurisdiction of justices of the peace, mayors, recorders and intendants of cities or towns, and all officers authorized to make arrests, to demand of peddlers, itinerant dealers and traveling agents their licenses, and unless they exhibit the same, or show that they have a right under the law to peddle the articles carried by them, or to carry on the business they are engaged in without a license, such county court judges, notaries, mayors, recorders, or intendants must issue warrants for the arrest of such peddlers, itinerant dealers, or traveling agents, returnable to any court of their county having criminal jurisdiction, which warrants may

be executed by the sheriff, or by any constable of the county, any city or town marshal, policeman, or any officer having authority to make arrests. It shall, however, be lawful for any person having but one arm, or but one leg, or who labors under any other physical disability, preventing him from making a livelihood by labor, to peddle in any county in this state free of license, on the filing of the certificates of two regularly licensed physicians in the office of the judge of probate of the county of his permanent residence, to the effect that he is permanently disabled, and that he cannot by labor make a livelihood for himself or family; but this shall not be so construed as to require a license on peddlers of fish, oysters, game, fresh meats, poultry, fruit and all farm products raised by the seller.

Vines v. State, 69 Ala. 73.

32. For pawn-brokers, fifty dollars.

Subd. 8.

33. For each person or firm engaged in the business of buying or selling futures for speculation, or on a commission, three hundred dollars; but this shall not be held to legalize any contract which would otherwise be invalid.

Subd. 34.

34. For transient or itinerant auctioneers, or dealers in goods, wares and merchandise, other than licensed peddlers, and other than traveling agents of wholesale dealers in said articles, making sale thereof by sample, fifty dollars.

Subd. 10.

35. For traveling agents of wholesale dealers in goods, wares and merchandise, ten dollars, a license to be taken out in only one county; and should any such agent fail to take out such license, all contracts made by him shall be void, and in any proceedings to enforce any such contract, the burden of proof shall be upon the party selling such goods, wares and merchandise to show that such license had been taken out at the time such contract was made.

Subd. 33.

36. For itinerant dealers in fruit trees, vines, or shrubs, or plants of any kind, fifty dollars.

Subd. 10.

37. The owner or master of any steamboat, or other water-craft, plying any of the rivers of this state, who engages in the business of buying, selling, or bartering any goods, wares, merchandise, produce, or commodity whatever, on or from such boat or water-craft, must pay a license of two hundred and fifty dollars; and the party so licensed shall thereby be entitled to carry on such business on the boat or water-craft therein named in any county in which the same is navigated; but cities and towns, in which such person engages in such business, may impose such license as is exacted of like business in such city or town.

Subd. 32.

38. The owner, conductor, or person in charge of every supply car, or car from which any goods, wares, or merchandise are sold, whether to the servants of the railroad company, or to others, must pay a license of one hundred dollars; and the person so licensed shall thereby be entitled to carry on such business in the car therein named, in any county in which such car is run or drawn; but each of such counties may charge a license therefor of ten dollars.

Subd. 32.

39. Each lightning-rod company selling lightning rods in person or through agents, and all persons engaged in the business of selling lightning-rods, shall pay to the state a license tax of fifty dollars. The payment of this tax to the state, evidenced

Subd. 19.



by the receipt of any judge of probate, shall exempt such company or person from the payment of such tax in any other county; but in each county in which such company or person carries on such business, a license tax of ten dollars shall be paid for county purposes.

Subd. 20.

40. Each sewing machine, stove, range, or clock company, selling sewing machines, stoves, ranges, or clocks, either in person or through agents, or consignees, and all persons who engage in the business of selling sewing machines, stoves, ranges, or clocks, shall pay to the state twenty-five dollars for each county in which they may so sell; but when merchants, engaged in a general business, keep sewing machines, stoves, ranges, or clocks, as a part of their stock in trade, they shall not be required to pay the tax herein provided.

Merritt v. State, 59 Ala. 46.

Subd. 21.

41. Each and every person, partnership, or corporation, who engages in the business of inquiring into and reporting upon the credit and standing of persons engaged in business in this state, shall pay a license tax of three hundred dollars; and the payment of this tax to the state, evidenced by the receipt of any judge of probate, shall exempt such person, partnership, or corporation from the payment of such tax in any other county; and payment of such tax shall not, when it has been paid by such person, partnership, or corporation, be required of any of their agents or correspondents in the state.\*

Feb. 17, 1885, p.  
21, sec. 48.

**630. Licenses for county purposes; amounts, how determined.**—The court of county commissioners of each county, except in cases otherwise provided, may, at any regular or special term, add to the taxes specified in the last preceding section such amounts, not exceeding fifty per cent. of such taxes, for county purposes, as, in their judgment, may be necessary.

## ARTICLE II.

### ISSUE AND EXPIRATION OF LICENSES, AND OTHER GENERAL PROVISIONS.

Dec. 12, 1884, p.  
3, sec. 8.

**631. Unlawful to engage in certain businesses without license.**—It shall be unlawful for any person, firm, or corporation to engage in or carry on any business, or do any act for which a license is by law required, without having first paid for and taken out a license therefor in the manner in this article provided.

Ib. secs. 5, 8, 9;  
Feb. 17, 1885, p.  
21, sec. 53.

**632. Payment for, and issue and contents of license.**—Before any person, firm, or corporation shall engage in, or carry on any business, or do any act, for which a license is by law required, he or they shall pay to the judge of probate of the county in which it is proposed to engage in, or carry on such business, or to do such act, the amount required for such license; and upon such payment, and a fee of fifty cents to such judge for issuing the same, such judge shall issue the license, countersigned by him, in the form, and on a blank to be fur-

\* By act approved February 28th, 1887 (Pamph Acts 1886-7, p. 105), foreign insurance companies, not including "any secret or benevolent society, such as Masons, Odd Fellows, Knights of Pythias, Knights of Honor, Iron Hall, or orders of like kind," are required to "pay into the state treasury the sum of one hundred dollars per annum for the privilege of carrying on such business" in the state.